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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 In re PHILLIP O. EMIABATA,

11 Appellant,

12 v.

13 SPECIALIZED LOAN SERVICING,
14 LLC, and AVAIL 1 LLC,

15 Appellees.

CASE NO. C17-1752MJP

ORDER DENYING IFP ON
APPEAL

16 On February 21, 2019, this Court entered an order dismissing the above-entitled matter
17 for failure to prosecute. (Dkt. No. 65.) Appellant had been given an opportunity to present the
18 substantive merits of his appeal from the decision of the Bankruptcy Court. Despite having been
19 given an extension of time to file his opening brief (Dkt. No. 57), Appellant chose instead to file
20 a series of frivolous procedural motions (*see* Dkt. Nos. 59, 62, and 63). The deadline for filing
21 his opening appellate brief lapsed, leaving the Court with no alternative but to terminate his
22 lawsuit.
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1 On March 27, 2019, Appellant filed a Notice of Appeal to the Ninth Circuit (Dkt. No.
2 69), along with a Motion In Forma Pauperis (Dkt. No. 70) requesting to be allowed to continue
3 his IFP status while prosecuting his appeal. In that motion, he cites FRAP 24(a)(3) as grounds
4 for granting the motion. FRAP 24(a)(3) ("Proceeding In Forma Pauperis/Leave to Proceed In
5 Forma Pauperis") states that, if the party was granted IFP status in district court (which
6 Appellant was) he may proceed on appeal IFP unless "the district court -- before or after the
7 notice of appeal is filed -- certifies that the appeal is not taken in good faith." FRAP
8 24(a)(3)(A).

9 It is the finding of this Court that this appeal is not taken in good faith. Given repeated
10 opportunities to present the substantive merits of his case, Appellant opted time and again to
11 avoid presentation of the legal merits of his appeal in favor of a string of procedural red herrings
12 which appeared calculated solely to prolong the day when the substance of his case would
13 finally be evaluated.

14 This Court hereby certifies that the appeal of this matter is not taken in good faith, and
15 the motion to be granted IFP status on appeal is DENIED.

16 In accordance with FRAP 24(a)(4), the clerk is ordered to provide copies of this order to
17 Appellant (by mail, return receipt requested) and to the Ninth Circuit Court of Appeals.

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19 The clerk is ordered to provide copies of this order to Appellant and to all counsel.

20 Dated this 2nd day of April, 2018.

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24 Marsha J. Pechman
United States District Judge